

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE	)	PDC CASE NO: #01-184
WITH RCW 42.17	)	
	)	REPORT OF INVESTIGATION
JAMES W WHITE	)	
	)	
Respondent.	)	
_____	)	

I.

BACKGROUND

- 1.1 On January 31, 2001, the Public Disclosure Commission received a complaint from Martin Plys alleging that James White, Mayor of Kent, solicited contributions from city employees in violation of RCW 42.17.750 and used public facilities for campaign related activities, in violation of RCW 42.17.130.

II.

SCOPE

- 2.1 Staff reviewed the following from the complainant:
1. Complaint letter dated January 31, 2001 from Martin Plys.
    - Attached campaign kick-off invitation from Re-Elect Jim White Mayor campaign.
    - Attached newspaper article entitled "Kent mayor apologizes for campaign error."
    - Attached e-mail from Mayor Jim White sent to 'All Users' [City of Kent employees] entitled "Apology."
- 2.2 Staff reviewed the following documents from the respondent:
1. Response letter dated February 5, 2001 from Mayor James White.
  2. Second response letter faxed March 29, 2001 from Mayor James White.
    - Attached copy of letter from PDC staff dated March 12, 2001.
    - Attached invoice dated January 25, 2001 from Sir Speedy, 216 Railroad Avenue North, Kent, WA 98032.

- Attached Schedule B, page 2 with page total of \$1,921.81.
- Attached statement signed by Edna White and list of campaign volunteers.
- Attached list of city employees that received invitations at city work address.
- Attached list of city employees that received the invitation at their home address.

2.4 Staff reviewed Mayor Jim White candidate registration form (PDC form C-1) filed on January 30, 2001.

2.5 Staff reviewed Cash Receipt reports (PDC form C-3), Summary Reports (PDC form C-4), and Cash Receipt and Expenditure reports (PDC form Schedule A) filed from February 2001 through July 2001.

2.6 Staff reviewed statement by Jan Banister, Executive Secretary to the Mayor on July 16, 2001, describing how the City of Kent provides mailing lists to the public.

2.7 Staff reviewed letter from Simon Stocker, Assistant City Attorney dated August 20, 2001 detailing the number of City of Kent e-mail mailboxes

## II.

### LAW

#### **3.1 RCW 42.17.040** states in part:

(1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides...

#### **3.2 RCW 42.17.130** states in part:

No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours,

vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: . . .

**3.3 RCW 42.17.750** states in part:

(1) No state or local official or state or local official's agent may knowingly solicit, directly or indirectly, a contribution to a candidate for public office, political party, or political committee from an employee in the state or local official's agency.

IV.

FINDINGS

- 4.1 James W. White served as a member of the Kent City Council for 10 years before becoming Kent's first full-time Mayor on January 1, 1994. He was re-elected to a second 4-year term in 1997.
- 4.2 On January 31, 2001, Martin Plys filed a complaint with the Public Disclosure Commission. **(Exhibit 1)** The complaint alleges:
1. James W. White, Mayor of Kent, sent city employees an invitation to his re-election campaign kick off and solicited contributions to the campaign in violation of RCW 42.17.750.
  2. Mayor White sent an e-mail to all city employees apologizing for the invitation to his re-election campaign kick off in violation of RCW 42.17.130.
  3. City employees felt threatened and uncomfortable due to receiving the invitation and requests for solicitation at their work place.
  4. Mayor White used taxpayer funds to create, produce, and distribute the invitations.
  5. The complainant questions whether Mayor White has “awarded [city employees] for past or present contributions” and whether the city employees were solicited in the past.
- 4.3 Included with the letter of complaint was an attached copy of the invitation to Re-Elect Jim White campaign kick-off, a February 1, 2001 event at the Kent Senior Center. **(Exhibit 1)** The copy of the invitation had a postmark date of January 20, 2001, and a delivery address of 220 4<sup>th</sup> Avenue South, Kent WA 98032, the address of the Kent City Hall. The name of the recipient was masked. The invitation included a contribution return envelope.
- 4.4 Included with the letter of complaint was an attached copy of an article in the South King County Journal dated January 29, 2001, which reported that Mayor White e-mailed all city employees to apologize for city workers receiving the invitation to the campaign kick-off. **(Exhibit 1)**

- 4.5 Included with the letter of complaint was an attached copy of an e-mail dated January 29, 2001 from Mayor Jim White to 'All Users'. **(Exhibit 1)** The e-mail subject was entitled 'Apology' and stated the following:

**"I would like to apologize to any employees who may have received an invitation to my Election Kick-Off event on Feb. 1<sup>st</sup>. While anyone who would like to attend is welcome, employees were not supposed to receive the mailing. It is NOT my intent to solicit political contributions from employees."**

**"If you received an invitation, it was certainly unintentional, please accept my sincere apology."**

- 4.6 On January 30, 2001, Mayor White filed his candidate registration form for re-election as City of Kent Mayor in the November 2001 election. **(Exhibit 2)** This registration was filed six days later than the January 24, 2001 due date based on the date the invitations were ordered from the printer.
- 4.7 On February 12, 2001, Mayor White filed a response to the complaint. **(Exhibit 3)** In his letter dated February 5, 2001, Mayor White states the following:
- A. "No taxpayer dollars were used to make the invitations. The invitations were paid for by the Jim White committee."**
  - B. "No invitations were made by city employees. Invitations were made by Sir Speedy Printing, located at 216 North Railroad, Kent, WA 98032."**
  - C. "No city employees were used to address invitations. All invitations were addressed by campaign volunteers."**
  - D. "Stamps used on invitations were not appropriated with city funds. All stamps were donated to the campaign and have been properly accounted for in my PDC filings."**
  - E. "To my knowledge, no man hours were used by city employees to distribute invitations."**
  - F. "No city vehicles were used to transport invitations. All invitations were transported to the Post Office by privately owned vehicles."**
  - G. "My campaign records indicate that 39 city employees unintentionally received invitations at their work place."**
  - H. "My campaign records indicate that 6 city employees unintentionally received invitations at their residence."**
  - I. "Neither I nor any member of my staff has ever awarded individuals for past or present contributions."**
  - J. "Contributions made to my campaign four years ago are a matter of public record with the PDC. My campaign records show that no money contributed to the previous election came from city employees."**
  - K. "[V]olunteers made a mistake in mailing invitations from a list that included some city employees. City employees were not supposed to receive the mailing at home or at work. It was not my intent to solicit political**

**contributions from employees of the City of Kent. However, I take full responsibility and apologize for this error.”**

- 4.8 On March 30, 2001, Mayor White filed a second response to the complaint. **(Exhibit 4)** Mayor White provided the following documentation:
- A. Sir Speedy invoice dated January 25, 2001 reflecting a total due of \$619.81, for invitations and remittance envelopes ordered on January 10, 2001.
  - B. Page two of Schedule B to C-4 reflecting an in-kind contribution from Arthur Martin of \$1,122.00 for postage received on February 1, 2001.
  - C. The names and addresses of the two campaign volunteers that addressed the invitations. These individuals are not City of Kent employees.
  - D. A statement from Ms. Edna White on source of invitation list, which was the Commuter Rail Opening List.
  - E. List of 39 City of Kent employees that received the invitations at work address and 6 City of Kent employees that received invitations at their home.
- 4.9 On July 11, 2001, PDC staff contacted the City of Kent Information Technology manager to confirm the number of city employees with an e-mail account as of January 29, 2001. As requested by Joe Lorenz, the Information Technology manager, on July 16, 2001, the PDC staff submitted a public record request for this information. **(Exhibit 5)** On August 20, 2001, Simon Stocker, Assistant City Attorney responded to the request stating that **“there is no precise answer to your question available”**; however, Mr. Stocker described that as of August 7, 2001, the City of Kent had 949 e-mail recipient mailboxes. **(Exhibit 8)** Mr. Stocker stated that this number included individual accounts as well as group accounts used by multiple users, some of which may have their own personal accounts as well.
- 4.10 Attached to Mr. Stocker’s letter was a list of City of Kent employees as of January 1, 2001. **(Exhibit 8)** The City of Kent had, as of January 26, 2001, 1,855 employees. This number includes permanent and temporary staff working full-time and part-time hours.
- 4.11 On July 12, 2001, PDC staff inquired concerning the number of City of Kent employees that sorted and distributed US mail during January 2001. Tom Vetsch, manager of the City of Kent Finance and Customer Services stated that two to three Finance and Customer Services employees sort US mail on any given day. Once sorted, City of Kent department representatives pick up their area’s mail for distribution in the department. According to the City of Kent web site located at <http://www.ci.kent.wa.us/>, the city has the following twelve departments: Administration, Employee Services, Finance, Information Technology, Municipal Court, Legal, City Clerk, Parks, Recreation & Community Services, Community Development, Public Information and Government Affairs, Public Works Engineering, and Public Works Operations. Therefore, approximately 15 City of Kent employees sorted the US Mail on January 29, 2001.

- 4.12 Of the 39 City of Kent employees that received the invitations at work address and 6 City of Kent employees that received invitations at their home, one employee contributed to Mayor Jim White's re-election campaign on February 1, 2001. On the February 5, 2001 Cash Receipt form (PDC form C-3), Joanne M. Shault contributed \$50.00. **(Exhibit 6)**
- 4.13 On July 16, 2001, PDC staff requested a description of how the City of Kent provides mailing lists to the public. **(Exhibit 7)** This request was sent to Jan Banister, Executive Secretary to the Mayor. On August 2, 2001, Ms. Bannister replied stating that typically requests made for a mailing list is initiated by a public records request. **(Exhibit 9)** There are exceptions to this process, such as when the requested information **"is clearly disclosable as a public record, does not require research and consists of a few pages."** When Mrs. White requested the Commuter Rail Opening List containing three hundred names and addresses from Ms. Bannister, Ms Bannister handled the request informally, **"since the list was a public document."** Ms. Bannister stated that there were no costs associated with the seven-page mailing list; the City of Kent typically charges \$0.15 per page/per side for each page produced in excess of ten.

Respectfully submitted this 6th day of September, 2001.

\_\_\_\_\_/s/  
Suemary Trobaugh  
Sr. Political Finance Specialist

#### EXHIBITS LIST

- Exhibit 1** Letter of complaint filed on January 31, 2001, by Martin Plys with attachments.
- Exhibit 2** Candidate registration form (PDC form C-1) filed on January 30, 2001, by Mayor James White for re-election as Mayor of City of Kent in the November 2001 election.
- Exhibit 3** Letter of response filed on February 12, 2001, by Mayor White with attachments.

- Exhibit 4**      Second letter of response filed on March 30, 2001, by Mayor White with attachments.
- Exhibit 5**      Public records request to the City of Kent for number of City of Kent e-mail accounts as of January 2001.
- Exhibit 6**      Cash Receipt form (PDC form C-3), filed on the February 5, 2001 by Mayor White committee.
- Exhibit 7**      Letter from PDC to Jan Banister, Executive Secretary to the Mayor on July 16, 2001, requesting a description of how the City of Kent provides mailing lists to the public PDC staff.
- Exhibit 8**      Letter from Simon Stocker, Assistant City Attorney dated August 20, 2001 detailing the number of City of Kent e-mail mailboxes.
- Exhibit 9**      Letter from Jan Bannister, Executive Secretary to the Mayor dated July 31, 2001.